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THE DISSEMINATION OF TERRORIST THREAT INFORMATION:
WHO SHOULD BE WARNED?

BY

CATHY HANKS THOMAS

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USAWC MILITARY STUDIES PROGRAM PAPER

THE DISSEMINATION OF TERRORIST THREAT INFORMATION:
WHO SHOULD BE WARNED?

AN INDIVIDUAL STUDY PROJECT

by

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Project Adviser

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U.S. Army War College
Carlisle Barracks, Pennsylvania 17013
22 March 1989

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ABSTRACT

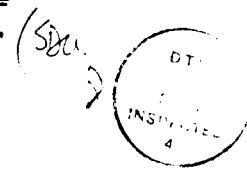
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The U.S. Government has been criticized for not publicizing a telephoned threat that some believe was a warning of the bombing of Pan Am Flight 103. These critics believe that the U.S. Government did warn government employees to avoid the flight. Although the telephoned threat was a hoax, even if it had been valid, the Government would not have disseminated the information to the public. If the Government receives information on a threat to a public facility or conveyance, it disseminates the information only to the security organizations responsible for protecting the alleged target. The information is not routinely disseminated to the public or to other groups (such as government employees) for their personal use. After a review of the Pan Am 103 controversy and arguments for and against the Government's policy, this paper examines the policy from two ethical viewpoints: utilitarianism and autonomy. The paper also discusses an ethical dilemma that arises for U.S. Government employees who have access to the threat information. A government official must make a choice between obeying the current policy or personally disseminating the information to persons he or she knows. The resolution of this dilemma in favor of not obeying U.S. policy is a serious issue within the Government--one that should be receiving more attention.



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TABLE OF CONTENTS

	PAGE
ABSTRACT	ii
CHAPTER I. INTRODUCTION	1
II. THE PAN AM CONTROVERSY	4
III. U.S. GOVERNMENT POLICY	8
Description of Current Policy	8
Rationale for Policy of Non-Disclosure	11
IV. OPPOSITION TO THE DEPARTMENT OF STATE POLICY	19
V. AN ETHICAL PERSPECTIVE	22
The Ethical Basis of the Policy	22
An Ethical Dilemma	24
VI. CONCLUDING THOUGHTS	28
APPENDIX 1	30
APPENDIX 2	31
BIBLIOGRAPHY	33

THE DISSEMINATION OF TERRORIST THREAT INFORMATION:
WHO SHOULD BE WARNED?

CHAPTER I

INTRODUCTION

. . . [T]he State Department and Pan Am [were allowed] to pick and choose who deserved to live and who was expendable . . . To decide to selectively warn embassy officials and top Pan Am management, with no regard for the average life, is appalling. Are they more valuable than the cockpit crew, pursers, flight attendants, the Syracuse University students or the John Cummocks on that flight?

- Victoria Cummock, in a letter
to Rep. Dante B. Fascell¹

Following the terrorist bombing of Pan Am Flight 103 over Lockerbie, Scotland, on 21 December 1988, the U.S. Executive Branch came under criticism for its failure to make the public aware of a telephoned threat that some believe was a warning of the bombing. The families of the Pan Am 103 victims and some members of Congress believe that the U.S. Government did warn government employees to avoid the flight.

In rebuttal, the Department of State (DOS), as the lead U.S. agency for international terrorism, maintained that there had been no valid warning of the bombing. Further, even if there had been a credible threat, the DOS said that they would not have disseminated the threat information to the public. According to DOS policy, if the U.S. Government receives information on a threat to a public facility or conveyance, it gives the information to the security organizations responsible for protecting the alleged target. These security organizations then

take appropriate countermeasures. Information on the threat is not routinely disseminated to the public nor to other groups (such as government employees) for their personal use.²

The Government believes that there is no other workable policy. However, some Congressional members believe that this policy of not informing the public is wrong. Senator Alfonse M. D'Amato (D-NY) has introduced legislation that would replace the policy with a requirement that the Executive Branch make the public aware of credible threats.³

This paper is a review of the DOS policy on terrorist threats to public conveyances and facilities, an evaluation of that policy from an ethical perspective, and a discussion of an ethical dilemma that results from the policy. After a review of the Pan Am 103-related controversy (Chapter II), Chapter III is an explanation of the DOS policy and an analysis of factors that support such a policy. Chapter IV describes public and Congressional opposition to the policy. Chapter V is a discussion of the policy from an ethical viewpoint. The paper describes two ethical frameworks that could be used in evaluating this policy: one based on utilitarianism and the other on a theory of autonomy. This evaluation concludes that the DOS policy may not be consistent with other Government policies or with the principle of an individual's right to know about things that endanger that individual. This chapter also includes a discussion of an ethical dilemma that can arise for U.S. Government employees (both military and civilian) who have access

to the threat information. The paper ends (Chapter VI) with some concluding thoughts on the fact that resolution of this dilemma in favor of not obeying U.S. policy is a serious issue within the Government that should be receiving more attention.

ENDNOTES

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2. U.S., Department of State, Terrorism: Its Evolving Nature, (L. Paul Bremer III), Current Policy Bulletin No. 1151 (Washington: Department of State, 1989), 4.

3. U.S., Cong., Senate, "S. 596 To Make Available Certain Information Involving Threats to the Safety of International Commercial Airline Travel," introduced 15 March 1989.

CHAPTER II

THE PAN AM CONTROVERSY

On Dec. 21 a Pan Am 727 took off from Frankfurt, apparently carrying a checked bag with a radio/cassette player bomb. In London, the Frankfurt baggage was transferred to a Pan Am 747 jumbo jet heading for the U.S. The bag with the bomb was put in cargo bay 14L, forward of the wing and on the left side of the plane.

When the bomb exploded, at 31,000 feet, it blew a hole in the left side just big enough so that the plane's nose canted slightly to the right. Caught by the wind rushing by at about 500 miles an hour, the nose swung violently to the right as if on a giant hinge. Then the nose, containing the cockpit and forward passenger cabin, snapped off completely. Pieces of the plane began plummeting toward earth.

- The Wall Street Journal¹

Just 4 days before Christmas 1988, the American public was stunned by the destruction of Pan Am 103, which resulted in the deaths of 259 passengers and 11 residents of Lockerbie, Scotland. News that the crash had been caused by a bomb added anger and frustration to the grief. Then, just 2 days after the crash, the news media reported that a man had telephoned the American Embassy in Helsinki in early December, warning that the flight would be sabotaged. The media further reported that, based on the telephoned threat, some government employees had been warned to avoid Pan Am 103. The New York Times published a replica of the notice posted at the Embassy in Moscow warning employees of the threat.² (A full text of the notice can be found at Appendix 1.) Questions immediately were raised as to why the public had not also been warned.

The telephoned threat was, in fact, a hoax³ and the posting of the notice in Moscow a mistake. But the Government's initial reaction to the news reports was neither consistent nor decisive and did nothing to quell the growing public outrage. The Government's response included:

- Phyllis E. Oakley, the deputy DOS spokesperson, admitted that information on the Helsinki threat was sent to U.S. embassies in Europe, but noted that it was meant for use only by security and administrative officials. She would not answer a question concerning the posting of the notice in Moscow. The DOS did not initially publicly identify the Helsinki call as a hoax.
- The U.S. Embassy in Moscow did not understand that the posting of the notice was a violation of DOS policy. As of 22 December, the Associated Press was quoting a Moscow Embassy spokesman as saying: "There was no attempt in Moscow to keep this from the American community. We assume that it's getting out to everyone."⁴
- At the White House, spokesman Marlin Fitzwater, clearly was not aware of the DOS policy either. He incorrectly said that embassies would give the warning information to "any citizens who inquire there about safety of travel and so forth."⁵

By the time an accurate version of what had happened was made public, it was too late. The families of the victims had-- and still have--firmly in their minds that the DOS had warned

government personnel but not the public. Since then the families have formally organized* and been given national media attention. For example, the Wall Street Journal printed an editorial by Phyllis Rosenthal, whose daughter was killed on Flight 103. Mrs. Rosenthal demanded that the DOS give the public, upon request, all information on threats against an airline.7

L. Paul Bremer III, who was then the Ambassador-at-Large for Counterterrorism at the DOS, had the task of attempting to correct the perceptions of the public (and Congress) and to offer an apologia for sending the information to the U.S. embassies in Europe. This is typical of the accounts he gave:

. . . There was no threat for Pan American 103. What happened was there was a telephone call to our embassy in Helsinki on December 5 which said there was going to be an attack on a Pan American plane in the next 2 weeks between Frankfurt and the United States. That was assessed . . . both in the FAA and the intelligence community. A decision was made to send an FAA security bulletin alert which they did on the same day.

That alert is sent to selected American embassies not for the purpose of alerting embassy personnel or people who work for the U.S. Government but for the purpose of being sure that either the civil aviation attache, the FAA attache if there is one there, or the regional security officer can work with local airport officials to be sure security is increased if that is what we ask for.

This threat was assessed three days later as being a hoax and indeed it has conclusively been proven to be a hoax. It had no relationship at all with Pan Am 103. That is not only our conclusion but is the conclusion of several other governments which investigated: the British Government, the German Government, the Finnish Government, and the Israeli Government.*

Congressional concern over the warning issue was widespread. By April 1988, Ambassador Bremer had appeared before 11

Congressional groups to explain DOS actions vis-a-vis Pan Am 103. 2

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2. John H. Cushman, Jr., "Pan Am was Told of Terror Threat," The New York Times, 23 December 1988: A16.
3. U.S., Cong., House, Committee on Foreign Affairs, Foreign Airport Security, 55. For additional information on the threat and other related intelligence information, see Appendix 2.
4. John H. Cushman, Jr. "Pan Am was Told of Terror Threat," A16.
5. John H. Cushman, Jr., "Pan Am was Told of Terror Threat," A16.
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7. Phyllis Rosenthal, "Pan Am 103: A Mother's Quest for Answers," The Wall Street Journal, 30 January 1989: A14.
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CHAPTER III

U.S. GOVERNMENT POLICY

DESCRIPTION OF CURRENT POLICY

The U.S. Government policy on the dissemination of terrorist threat information to the public is clear, if not widely known.

Ambassador Bremer describes how the threats are handled this way:

We urgently and carefully analyze [the dozens of threats received each week]. If a threat is deemed credible, we take immediate steps to counter the threat by getting the information into the hands of people who can take steps to counter the threat. For example, in the case of a threat to an airline, we get that information into the hands of airport security officials responsible for aviation security. This is the purpose of the FAA security alert bulletins . . . We do not routinely make terrorist threats public . . . Nor is it our policy to selectively alert people to terrorist threats. If we have a credible and specific terrorist threat to an airline which cannot be countered effectively on the spot, then our policy is to recommend that the airline cancel the flight. Otherwise we would issue a public travel advisory to the American traveling public. It is not our policy to alert government officials and not the general public to such a threat. There is, and can be, no double standard.¹

As noted by Ambassador Bremer, the FAA warning is disseminated to the airlines in the form of a security bulletin. The FAA sends these bulletins to an FAA Principal Security Inspector at the airline company or companies involved. Additionally, the FAA phones the corporate director of security if a specific airline is mentioned in the threat.² As noted in Chapter II, the information also is sent to U.S. embassies for use by FAA liaison and security officers.³

This policy had evolved over the years and, following the controversy over the Pan Am 103 warning, was formally reviewed by the Administration. Secretary of Transportation Samuel K. Skinner said that the policy had been discussed at a White House meeting and the decision was made to continue to withhold disclosure of a threat from the public. However, on 3 April the Administration did announce new rules intended to sharpen airline responses to terrorist threat warning. The rules stipulate that the airlines must confirm within 24 hours that they have received a threat warning and within 3 days must show that they have implemented appropriate precautions.⁴

The airlines can take several precautions in response to a threat. The most obvious one is to inspect thoroughly both checked and carry-on luggage. They also can ask for federal air marshals to fly on the flight or cancel the flight altogether.⁵ The DOS itself may ask that a flight be canceled and has established criteria to use for this decision. According to Ambassador Bremer, "a threat must be 'specific,' 'credible' and 'cannot be countered' before [the DOS] would move to have the flight(s) in question canceled."⁶

In his written statement for the 9 February 1989 House Foreign Affairs Committee hearing, Ambassador Bremer noted that the U.S. Government has never received a threat to civilian aircraft that met these three criteria and so has never recommended that a flight be canceled because of a terrorist threat.⁷

The DOS policy on terrorist threats may be undergoing subtle changes. For example, there have been two terrorist warnings issued to the public since Pan Am 103. The first was a general warning issued to the public in December 1989 of terrorist activities against American targets. The warning followed the arrest by Spanish authorities of eight Lebanese Shi'ites, identified as Hezbollah members. The group allegedly had been planning attacks on French and possibly U.S. targets. U.S. officials noted that they knew of no specific terrorist plan.⁹

The second warning was on 8 February 1990, when the DOS said it was "deeply concerned" that a terrorist attack would be attempted against a U.S. target in Western Europe on 11 February, the 11th anniversary of the Iranian revolution. This warning was said to be "related" to the warning issued the previous December.⁹

In an article on the second warning, George Lardner of The Washington Post assessed that the policy of issuing this type of broad alert was "only a few months old" and suggested that the new policy came in the aftermath of the criticism after Pan Am 103.¹⁰

It is also worth noting that a Presidential commission on aviation security is studying several issues arising from the Pan Am bombing, including the policy on dissemination of threat information. The commission was established specifically because of the Pan Am controversy. According to The New York Times,

"some" members of the commission, which includes Senator D'Amato, want the current DOS policy changed.¹¹

Other actions by the Administration, however, suggest that the policy is not changing. In January 1990, the FAA reiterated to the airline industry that the Administration is convinced that terrorist threat information should not be made public.

President Bush supports this view; The New York Times quotes him as saying that "the theory that publicizing treats can impede investigations by the authorities, plays into the hands of terrorist by disrupting normal business, and inspires hoaxes."¹²

There are several possible explanations of why there appear to be conflicting indicators as to whether the policy has or has not change. It may be that there is disagreement in the Administration and that some agencies' actions reflect a different opinion about what is best. Or it may be that the DOS has simply become more sensitive in the wake of the Pan Am 103 controversy and has lowered its threshold as to what should or should not be made public.

RATIONALE FOR POLICY OF NON-DISCLOSURE

Nature and Number of the Threats

The primary rationale for the DOS policy against public disclosure of threats to the public seems to be the nature and number of threats received. According to the FAA, there are more than 400 threats a year against U.S. carriers, and "almost all of

them are phony."¹³ Even if the threat information is genuine, the information that the U.S. Government receives is usually extremely vague and of unknown reliability. This is because terrorist organizations often are divided into cells with the members of each cell knowing only part of a plan. Thus, an informer may be able to reveal only part of the information needed to assess the threat. As noted by one airline security director, "You almost never find out that three guys are going to put a bomb on a TWA jet in Athens next Thursday."¹⁴

This large number of threats is not simply an American phenomenon. The British Department of Transportation receives approximately 215 bomb warnings each year. "If every government and every airline broadcast every warning from every source--crank or terrorist--international air travel would grind to a halt," opined Robert Adley, a British legislator.¹⁵

Encouraging Other Threats

A second rationale for this policy is the fear that the dissemination of threats would simply encourage others who wished to disrupt air traffic or publicize their cause to make more threats.¹⁶ As Secretary of State Baker noted during a Congressional appearance, publicizing threats would result in other "copy-cat" threats and the resulting "multiplicity of threats would degrade the system and make the public less responsive to credible and specific threat information."¹⁷

Economic Repercussions

Additionally, there would be economic consequences for American air carriers if threats were made public. Secretary Baker fears that terrorists could plant plausible-sounding threats to economically injure the airlines.¹⁸ And economic consequences also could result from valid threats, even if sufficient counter-terrorist actions were taken to preclude their success.

This is one rationale that has some empirical evidence; various data suggest that terrorist threats make people change their travel plans. For example, according to the non-profit U.S. Travel Data Center, 6.5 million Americans had made reservations to travel abroad in July 1985. A total of 1.4 million (22%) of them changed their reservations after the TWA 849 hijacking episode. Of those changing their reservations, 850,000 canceled their trips completely; 150,000 changed to another foreign destination; and 220,000 changed to a domestic U.S. destination.¹⁹

More recently, in December 1989, Northwest Airlines announced that an unidentified caller had threatened to sabotage Flight 51 from Paris to Detroit on 30 December. Northwest made the announcement after a Swedish newspaper published information on the threat. Although Northwest took extraordinary security precautions, only 22 passengers (which included at least three journalists and a Northwest public relations executive) took the flight. Originally, the flight had 130 reservations.²⁰ Apparently to assuage jittery passengers, Northwest offered any

passenger with a reservation on Flight 51 a seat on another Northwest flight at no charge.²¹

Understandably, the airline industry becomes concerned over the consequences of making threats public. For example, on 23 March 1989, IBM's European office warned its employees to avoid U.S. air carriers flying from the Middle East and Europe until the end of April. The warning was in response to the unauthorized disclosure of an FAA security bulletin. The Air Transport Association, a U.S. carriers' organization, noted that "actions such as that taken by [IBM] tend to unwittingly serve the purposes of those who would make threats to disrupt the world's air transport system."²² Pan Am's chairman echoed this sentiment: "Unfortunately, a wave of paranoia seems to be sweeping the country, and even more unfortunately, it's playing right into the hands of the terrorists."²³ It is worth noting that Pan Am's trans-Atlantic traffic declined in January, February, and March of 1989 from the previous year's figures, probably because of the Pan Am 103 bombing and its aftermath.²⁴

Protection of Sources

Another consideration behind the policy of nondisclosure of threats to the public is protection of the source of the information. Some threat information comes from sensitive intelligence sources. As noted by Transportation Secretary Skinner in Congressional testimony, if the Government makes information on a threat public, that revelation may cause the source of the information to "dry up."²⁵ Echoing that thought,

Secretary Baker suggests that it seems likely that other nations' intelligence organizations would be less likely to share information with the United States if they knew it may be made public.²⁶

Interference with Security and Law Enforcement Efforts

Secretary Skinner also maintains that to publicize threats would interfere with effective law enforcement. Specifically, if a threat were made known, it would then be difficult to apprehend the culprit since the culprit would know that police had been alerted. Additionally, if a threat against a specific flight is made known, then the perpetrators could simply move to another flight²⁷ or be alerted that they would have to circumvent enhanced security measures.²⁸

Legal Issues

There also may be legal difficulties with issuing, or for that matter not issuing, warning information. Some lawyers interpret federal law to mean that the Government would not be liable for damages for not making a terrorist threat warning.²⁹ Conversely, Secretary Baker believes that making some threat public could make the Government liable.³⁰ Presumably, he is referring to lawsuits by air carriers for damages and the like.

This threat of law suits holds for commercial organizations as well. The Pan Am bombing has generated at least one law suit. Families of some victims of the Pan Am 103 bombing have filed suit against Pan Am and one of its subcontractors. The suit

alleges that the airline and Alert Management System, Inc. "were negligent in ignoring warning from West German police" and the FAA.²¹

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CHAPTER IV

OPPOSITION TO THE DEPARTMENT OF STATE POLICY

As previously noted, Congress held numerous hearings after the Pan Am 103 bombing. The lack of notification of the public concerning threats was raised at the hearings with the DOS policy coming under sharp review by several Congressional members. Perhaps the harshest Congressional critic was Senator D'Amato.

Senator D'Amato believes very strongly that the public has a right to know about "credible" threats. To this end, he introduced legislation on 15 March 1989 that calls for public disclosure of these threats. During a hearing on aviation safety, he defined "credible" as those threats that meet FAA criteria to issue a security bulletin, some 30 each year.¹

Specifics of this legislation can be summarized as follows:

- The Secretary of Transportation shall establish a system for evaluating and grading the credibility and severity of any threat to international commercial airline travel.
- If there is a credible threat, the Secretary of Transportation shall inform the Secretary of State and all affected air carriers and airports.
- The Secretary of State shall establish a 24-hour toll-free consumer hotline so that the public might inquire about these credible threats. The information made available to the public shall identify the potentially affected flight and the severity of the threat. Information about the

hotline shall be printed on each ticket or ticket jacket and displayed at airports.

- Any air carrier receiving information on a threat will immediately notify the flight crew.
- The air carrier will be required to cancel any international flight if the Secretary of Transportation determines that a serious and credible threat exists to the flight.²

The bill was referred to committee and as of this date does not appear to have sufficient support to pass, or even to be referred back from committee.³ However, another incident such as the Moscow warning notice prior to Pan Am 103 could draw attention and presumably support to the bill.

Senator D'Amato based his legislation on what he believes is an obligation of the Government to tell people about threats and to let them make their own decisions. This assumption that the public has a right to know about credible threat information seems to be the basis of most opposition to the DOS policy.

Another argument against the DOS policy is an apparent conflict of interest on the part of the airlines. The FAA and DOS, in all but extreme cases, let the airline decide whether a threat is valid or specific enough to cancel a flight.⁴ Considering the financial losses at stake, one could find the objectivity involved in such a decision process open to question.

A family member of a Pan Am 103 victim also makes a strong argument for public notification. Paul S. Hudson, who is

chairman of "Victims of Pan Am Flight 103," says that the Government's rationale for not discussing threats is inconsistent with other situations. He notes that, if the Food and Drug Administration used the same policy, they would not have warned the public of the threat of poison in Tylenol, nor would they have pulled grapes off the shelves when some were found to be tainted. Instead, according to Mr. Hudson, "the [FDA] should have alerted the grocery and drug store chains' security firms, warning them not to tell the public and leaving it up to each store as to how to react to the threatened sabotage."⁵

ENDNOTES

1. U.S., Cong., Senate, Committee on Commerce, Science, and Transportation, Subcommittee on Aviation, Aviation Security, 9-10.

2. U.S., Cong., Senate, "S. 596 To Make Available Certain Information Involving Threats to the Safety of International Commercial Airline Travel."

3. Congressional Index, 101st Congress 1989-1990, 2 vols. (Chicago: Commerce Clearing House, inc, 1989), 1: S602.

4. U.S., Cong., House, Committee on Foreign Affairs, Foreign Airport Security, Hearing, 101st Cong., 1st sess., 9 February 1989 (Washington: GPO, 1989), 108.

5. U.S., Cong., Senate, Committee on Commerce, Science, and Transportation, Subcommittee on Aviation, Aviation Security, 81.

CHAPTER V

AN ETHICAL PERSPECTIVE

Morality is, first and foremost, a matter of consulting reason: the morally right thing to do, in any circumstances, is determined by what there are the best reasons for doing.¹

- James Rachels

This chapter discusses two topics related to ethics and the DOS policy. First, an evaluation of the policy based on two ethical frameworks is presented. The second topic deals with an ethical dilemma that some say results from the policy.

THE ETHICAL BASIS OF THE POLICY

While I believe it would be presumptuous to attempt to determine if the DOS policy is ethically "right," it is possible to evaluate the policy in terms of two standard ethical theories. This approach to the evaluation of the policy was suggested by Colonel Malham Wakin, Chairman of the Department of Philosophy at the USAF Academy.² Colonel Wakin noted that the basic issue is whether threat information should be disseminated to the public or not. The utilitarians would say that it should not be disseminated because utilitarianism looks at the consequences of an action and determines what action will have the greatest utility in the long run. The intentions, feelings, needs, or convictions of each individual are not considered, but rather the ultimate consequences to the public as a whole is paramount.³ Accordingly, to utilitarians, the "good" of society as a whole is

best served by the current DOS policy for all the reasons given in Chapter III.

However, this utilitarian approach breaks down if the threat information is of a specific and valid nature. In that case, other ethical considerations, such as those advocated by Immanuel Kant, may override the obligation to keep the information within government and security channels. Kantian theory insists that a person is an autonomous rational agent. For example, applied to medical ethics, Kantian ethics say that people are capable of controlling their own destiny and of making major decision affecting their lives.⁴ This theory is called "autonomy" and it guides most medical decisions in America today. Prior to the 1960's the theory of paternalism was used; following this approach, the physician made whatever decision he thought best, without necessarily consulting the patient.

It is the autonomy approach that was used by the Government in the Tylenol tampering case. The FDA ordered all appropriate countermeasures (such as the removal of the product from store shelves, extensive law enforcement and investigations, and FDA analysis of other lots) and kept the public informed about all facts related to the case.⁵ In other words, they gave the information to the public and let them decide for themselves whether they should continue to use the product or not. It should be noted, however, that the Tylenol case is not completely analogous to the terrorist threat situation. By the time the Government made the announcements on Tylenol there had already

been deaths. Additionally, dampening consumer interest in one commercial product has considerably less economic consequence than disrupting international air travel.

Nevertheless, if one applies autonomy to the terrorist threat dilemma, one reaches the conclusion that individuals have a right to know about threats and that the government should not act in a paternal role to protect the public. However, due to the very vague nature of the majority of threats, it may be acceptable not to publicize general threats, but to rely on an autonomy approach that would mandate publicizing specific threats. This approach sounds very similar to that of Senator D'Amato.

AN ETHICAL DILEMMA

The second ethical issue related to the DOS policy concerns what some perceive as an ethical dilemma for government officials, be they civilian or military. The dilemma is as follows: according to the DOS policy, if a government official becomes aware of a threat to a public facility or conveyance in the course of the official's duties, the official may not then use that information specifically to warn potential or actual passengers. For the official to warn a specific individual would set up a double standard, i.e., specific individuals or groups would be warned to avoid a public conveyance or facility while the U.S. public would not be warned. The government official has a choice then between obeying the current policy or possibly

saving the lives of family, friends, or other government employees. This dilemma may be especially acute if the official is in a command position and believes that he or she has a responsibility to protect subordinates.

I thought when I began research for this paper that most commanders would believe that the latter obligation had a higher precedence. A survey I conducted among 13 of my War College classmates reinforced this view. The survey, done as part of a Shippensburg University research course, revealed that not a single one of the respondents would follow DOS policy if they were privy to threat information. One classmate expressed the issue especially poignantly: "An officer assigned to the battalion that I commanded was killed on Pan Am 103. He was TDY at the time. Had I known of the threat he would not have been on that flight!"*

While this is an admittedly small sampling, the universality of the responses makes it clear that the policy probably will not be followed by most, if not all, officials in the field. I suggest that there are at least three explanations for this. First, officials may see it as a moral dilemma in which they must choose between competing obligations: the obligation of a government official to adhere to DOS policy versus an obligation to protect other individuals. When confronted with this choice, the officials choose to warn their loved ones, friends, and subordinates.

A second explanation would be that they believe the DOS policy is wrong and are consciously violating it because of their belief in the public's right to know about terrorist threats.

A third explanation is that the officials may not, in fact, think through their response, rather they just react. DOS policy attempts to bring rationality to an irrational situation and it may be that this is not possible. The policy, in essence, asks people to put aside their fears of terrorism; to put aside their deeply-held obligation to friends, family, and subordinates; and to allow security officials to take responsibility for stopping the terrorists. This may be asking too much. An editorial in The New Republic following the TWA 849 hijacking explains it this way:

. . . the hysterical cancellation of travel plans is . . . [an] example of Americans' inability to think rationally about the trade-off both between risk and benefit and between different kinds of risks. Glamorous, publicized risks loom large in the public mind; mundane, everyday risks are ignored. Most of those who are currently canceling their vacation or business travel plans could do a lot more for their life expectancies by losing ten pounds."⁷

ENDNOTES

1. James Rachels, The Elements of Moral Philosophy, p. 8.
2. Malham M. Wakin, personal interview, 10 January 1990.
3. John Arras and Robert Hunt, "Introduction," Ethical Issues in Modern Medicine, Mayfield Publishing Company, 7-10.
4. John Arras and Robert Hunt, "Introduction," Ethical Issues in Modern Medicine, Mayfield Publishing Company, 18-19.

5. U.S., Cong., House, Committee on Energy and Commerce, Subcommittee on Health and the Environment, Tamper-Resistant Packaging for Over-the-Counter Drugs, Hearing, 97th Cong., 2nd sess., 15 October 1982: 4-5.

6. This comment was made on a survey conducted by the author as part of a Shippensburg University research course. The officer wishes to remain anonymous.

7. "Please Go Away," The New Republic, 19 May 1986, p. 7-8.

CHAPTER VI

CONCLUDING THOUGHTS

To summarize, the DOS may be changing or modifying the policy; but for now it stands. And, although additional research would be necessary to verify my initial findings, I believe that when confronted with the dilemma of warning friends, loved ones, and subordinates that government employees (and perhaps especially military officers) will violate the policy. And, if and when another incident such as the posting of the notice in Moscow becomes public knowledge, the consequences will be significant. As previously mentioned, if Congress becomes aware that select individuals or groups have been warned, passage of Senator D'Amato's bill becomes more likely. The Government will then be forced to disseminate all credible threats to the public. For all the reasons given in Chapter II, this will have a tremendous economic impact, will result in the "drying up" of intelligence sources, and will disrupt international travel.

In conclusion, I would note that as I conducted research for this paper, two attitudes were noticeable by their absence. First, I could find no government official who would acknowledge that the DOS policy results in an ethical dilemma for some people. Clearly, they are either not thinking through the realities of implementation of the policy or they are choosing to ignore the fact that a dilemma exists. Second, with one exception, no one would admit that there is a compliance problem with the DOS policy. The official attitude expressed by

representatives of virtually all organizations within the Executive Branch seems to be that this is the correct policy and that everyone will follow it.

There was one exception to this. One person, who did not wish either himself or his agency to be identified, acknowledged that his agency ignores the DOS policy. On a consistent basis, this agency issues selective warnings about threats to their employees even though the public is not being warned. He emphasized that the DOS must not know about this. In fact, the DOS is well aware of the agency's practice, but chooses not to make an issue of it.

As a career civil servant, the absence of official recognition of the dilemma and the seemingly "laissez-faire" attitude toward non-compliance concern me. I believe that for many reasons, not the least of which is a loss in credibility, it is wrong for a policy to be promulgated by the federal government that we know is going to cause an ethical dilemma for many government officials (both civilian and military). And it is wrong for the agencies involved to ignore a serious compliance problem.

These are not easy issues to resolve; I have no answers. But that does not mean that the bureaucrats and policy makers in Washington should ignore them. The problem of terrorism is not going to go away, nor is the problem of how and to whom to disseminate threat information. It would seem to me that they deserve more discussion and study.

APPENDIX 1

The following is the complete text of the warning notice posted at the U.S. Embassy in Moscow. William C. Kelly, Administrative Counselor, signed the notice.

A D M I N I S T R A T I V E N O T I C E

American Embassy, MOSCOW

December 13, 1988

TO : All Embassy Employees
SUBJECT : Threat to Civil Aviation

Post has been notified by the Federal Aviation Administration that on December 5, 1988, an unidentified individual telephoned a U.S. diplomatic facility in Europe and stated that sometime within the next two weeks there would be a bombing attempt against a Pan American aircraft flying from Frankfurt to the United States.

The FAA reports that the reliability of the information cannot be assessed at this point, but the appropriate police authorities have been notified and are pursuing the matter. Pan Am has also been notified.

In view of the lack of confirmation of this information, post leaves to the discretion of individual travelers any decisions on altering personal travel plans or changing to another American carrier. This does not absolve the traveler from flying an American carrier.

(Taken from: John H. Cushman, Jr. "Pan Am was Told of Terror Threat," The New York Times, 23 December 1988: A16)

APPENDIX 2

The following is a chronology of threat information related to Pan Am 103. It comes from testimony by Ambassador Bremer before a Congressional committee:

In late October 1988, West German authorities detained 13 suspected members of the PFLP-GC. Weapons and explosives were seized. Twelve of the suspects were subsequently released.

In mid-November the U.S. government received detailed information on the Toshiba radio-cassette bomb seized during these arrests. This information was forwarded quickly to airlines through an FAA Aviation Security Bulletin. There was no information resulting from these arrests or the discovery of this bomb that connected the bomb with Pan Am flights or with any other target for such a bomb.

Nevertheless, because of the discovery of such a bomb and the unusual number of suspected PFLP-GC members arrested, the FAA issued an Aviation Security Bulletin to U.S. carriers to warn them about the presence of the PFLP-GC members in Europe, the existence of this bomb, its characteristics, and to advise that increased security measures should be introduced to counter this threat. This bulletin remains in effect today.

On December 5, the U.S. embassy in Helsinki received an anonymous telephone call reporting that a Finnish woman would unwittingly carry a bomb onto a Pan American flight from Frankfurt to the United States within the subsequent two-week period.

The so-called "Helsinki threat" did not include a specific flight number, date, or itinerary. The Finnish authorities began an immediate investigation. On December 7th, this information was reported to the State Department and the FAA.

That same day, the State Department Regional Security Officer in Frankfurt alerted Pan American and Frankfurt International Airport to the information and the FAA issued an Aviation Security Bulletin to alert U.S. carriers. Increased security to counter this threat was imposed by Pan Am for all of its flights leaving Frankfurt.

By 10 December, the Finnish authorities had determined that the Helsinki threat was a hoax. However, the enhanced security in response to this threat continued.

In the wake of the Pan Am bombing, the Helsinki threat was reinvestigated by the Finnish authorities. Their findings were reviewed by other concerned government, including our own. All of these

governments concluded that the Helsinki threat was baseless.

The caller, who was known to the Finnish authorities from similar calls he had made to the Israeli embassy, drew upon public information on previous terrorist incidents to concoct his story. In this case, however, his threat was a horrifying coincidence with what someone else did to Pan Am 103.

Let me emphasize three critical points: There is no connection between the Helsinki threat and the discovery of the bomb made by the PFLP-GC. These were two independent and unrelated events.

There was never any threat specific to Pan Am Flight 103, on 21 December or any other date.

The Helsinki threat was a hoax. It had no relation whatsoever to the bombing of Pan Am 103.

(Taken from: U.S., Cong., Senate, Committee on Commerce, Science, and Transportation, Subcommittee on Aviation, Aviation Security, Hearing, 101st Cong., 1st sess., 13 April 1989 (Washington: GPO, 1989, 54-55.)

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22. U.S. Cong. House. Committee on Foreign Affairs, Foreign Airport Security, Hearing, 101st Cong., 1st Sess., 9 February 1989. Washington: GPO, 1989.

23. U.S. Cong. Senate. "S. 596 To Make Available Certain Information Involving Threats to the Safety of International Commercial Airline Travel." Introduced 15 March 1989.

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